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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,109	12/29/2003	Kenneth H. Rosen	1209-4	3155
23869	7590	01/27/2006	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				LOUIS JACQUES, JACQUES H
ART UNIT		PAPER NUMBER		
		3661		

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/749,109	ROSEN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jacques H. Louis-Jacques	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 December 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-17 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12292003.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### *Specification*

1. The disclosure is objected to because of the following informalities: Brief descriptions for Figures 2A and 2B are missing.

Appropriate correction is required.

### *Claim Objections*

2. Claims 13-17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 13-17 refer to a “system of claim 1”. However, claim 1 recites a “method”. For examination purposes, claims 13-17 are being considered to depend on claim 10.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Myr [6,577,946].

Myr discloses a method and system [for traffic information gathering via cellular phone networks for intelligent transportation systems] for determining traffic conditions of selected routes using a wireless device including wireless phone, wireless computer, a wireless PDA, or a combination thereof (figure 1). According to Myr, there is provided a plurality of wireless devices (e.g., 100, 102, 104, 106), each said wireless devices being located in at least one vehicle traveling on said selected routes (figures 8-10), for receiving a number of signals at various times from vehicles traveling on said selected routes (abstract, figure 4); and a processor for counting total number of the signals received on said selected routes, comparing said total number of the signals with a predetermined value, determining location of said vehicles at said various times on said selected routes if said total number of signals is greater than the predetermined value (figure 1, columns 1, 3-4. Also, there is provided a central computer for computing velocity of the vehicles at said various times on said selected routes based on said location information, creating a traffic profile based on the location and computed velocity of the vehicles and sending said traffic profile of said selected routes to the vehicles (figure 1, 4, columns 3-4). Myr also discloses periodically polling said wireless devices to track the location information of the vehicles traveling in said selected route and wherein said traffic profile includes average velocity of the vehicles traveling in said routes, estimate time of arrival for said route, driving directions of said routes, driving directions of alternate routes, or combination thereof (column 6, 9, 18, 19). In addition,

Myr discloses flagging the vehicle having a zero velocity (column 8), continuously updating the traffic profile based on changes in location and velocity of the vehicles (column 20), wherein location of the vehicles is determined only when there are sufficient number of the vehicles traveling on said selected routes (column 8). Furthermore, Myr discloses that traffic profile can be automatically sent to the vehicle via said wireless device or can be sent to the vehicle via said wireless device only upon request and, wherein traffic profile is sent in formats such as text, video, audio or the combination thereof (column 2). Still, according to Myr, there is provided a database for storing the location of the wireless devices received from the wireless communications network (column 3-4), wherein the database includes record of each user of the wireless device, said record includes identity information of the user of the wireless device, the phone number of the wireless device, user's selection of automatically receiving traffic profile, user's selection of receiving traffic profile upon request, user's selection of method of receiving the traffic profile, or a combination thereof (column 4, 6). The central computer, according to Myr, coordinates with said wireless communications network for information needed to create said traffic profile (columns 4-5). There is also provided, according to Myr, GPS device integrated with said wireless communications network for determining the location of the vehicles at said various times, wherein said central computer coordinates with said GPS device for additional information needed to create the traffic profile (column 2).

5. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Alewine et al [6,150,961].

Alewine et al discloses a method and system [automated traffic mapping] for determining traffic conditions of selected routes using a wireless device including wireless phone, wireless computer, a wireless PDA, or a combination thereof (abstract, figure 2, 4 and column 1). There is provided a plurality of wireless devices (column 1, columns 3-4), each said wireless devices being located in at least one vehicle traveling on said selected routes (figure 5), for receiving a number of signals at various times from vehicles traveling on said selected routes (abstract, figure 4); and a processor for counting total number of the signals received on said selected routes, comparing said total number of the signals with a predetermined value, determining location of said vehicles at said various times on said selected routes if said total number of signals is greater than the predetermined value (columns 3-4). Also, there is provided a central computer for computing velocity of the vehicles at said various times on said selected routes based on said location information, creating a traffic profile based on the location and computed velocity of the vehicles and sending said traffic profile of said selected routes to the vehicles (figure 2-3, column 4). Alewine et al also discloses periodically polling said wireless devices to track the location information of the vehicles traveling in said selected route and wherein said traffic profile includes average velocity of the vehicles traveling in said routes, estimate time of arrival for said route, driving directions of said routes, driving directions of alternate routes, or combination thereof (figure 4, column 3-4). In addition, Alewine et al discloses flagging the vehicle having a zero velocity (column 3),

i.e., determining whether the vehicle is moving by monitoring its speed, continuously updating the traffic profile based on changes in location and velocity of the vehicles (columns 3-4), wherein location of the vehicles is determined only when there are sufficient number of the vehicles traveling on said selected routes (column 5). Alewine et al further discloses that traffic profile can be automatically sent to the vehicle via said wireless device or can be sent to the vehicle via said wireless device only upon request and, wherein traffic profile is sent in formats such as text, video, audio or the combination thereof (column 4). Alewine et al discloses a database for storing the location of the wireless devices received from the wireless communications network (figure 2, columns 3-4), wherein the database includes record of each user of the wireless device, said record includes identity information of the user of the wireless device, the phone number of the wireless device, user's selection of automatically receiving traffic profile, user's selection of receiving traffic profile upon request, user's selection of method of receiving the traffic profile, or a combination thereof (columns 2, 4, 6). The central computer, according to Alewine et al, coordinates with said wireless communications network for information needed to create said traffic profile (column 3). There is also provided, according to Alewine et al, GPS device integrated with said wireless communications network for determining the location of the vehicles at said various times, wherein said central computer coordinates with said GPS device for additional information needed to create the traffic profile (columns 1, 3-4).

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***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

3,866,185	Etra et al	Feb. 1975
5,289,183	Hassett et al	Feb. 1994
6,587,777	St. Pierre	Jul. 2003
US 2003/0154017	Ellis	Aug. 2003

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is 571-272-6962. The examiner can normally be reached on M-Th 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques  
Primary Examiner  
Art Unit 3661

/jlj

*Jacques H. Louis-Jacques*  
JACQUES H. LOUIS-JACQUES  
PRIMARY EXAMINER